City of Lafayette Staff Report

For:	City Council
By:	Donna Feehan, Administrative Analyst
Date Written:	January 29, 2009
Meeting Date:	February 9, 2009
Subject:	Stormwater Pollution Prevention Program Adoption of Resolution No. 2009-09 Setting the Stormwater Utility Fee for FY 2009-2010

Background

The City of Lafayette administers a stormwater pollution prevention program to meet the requirements of our National Pollutant Discharge Elimination System (NPDES) permit issued by the San Francisco Bay Regional Water Quality Control Board (RWQCB).

Each year City Council must set the stormwater utility fee for the following fiscal year. The fee is based on "equivalent runoff unit" (ERU). Single-family residential units on parcels between 5,000 square feet and 20,000 square feet (less than ½ acre) are assessed 1 ERU per parcel. Other land uses are charged differently, making Lafayette's average 1.6 ERUs per parcel.

This fee funds operation of the local program as well as joint permit activities at the Contra Costa County Clean Water Program level. Council action is required to set the ERU each year.

Future Budget Issues

Since its inception the Storm Water Pollution budget has carried forward a reserve fund each year. The ongoing reserve has been primarily due to the time lag between studies, monitoring and reporting, and the physical implementation of best management practices identified through this effort (such as street sweeping, routine catch basin cleaning, litter control, storm drain cleaning and other programs).

The cost to comply with new program requirements has increased in the last few years and annual costs could exceed annual revenues. Expanding monitoring, implementation and reporting requirements that will be required within the anticipated Municipal Regional Permit to be imposed by the Clean Water Board equate to a dramatic increase in staff time and program costs at a rate that is difficult to forecast. Requirements of the new Municipal Regional Permit are expected to increase costs at the Contra Costa Clean Water Program joint level for next fiscal year and our City costs are anticipated to

increase significantly depending on the requirements adopted within the Municipal Regional Permit expected within the next few months. Reserve funds could be depleted within a couple of years without additional means to generate funds. The Clean Water Program has been appropriating funds to conduct a Proposition 218 county-wide election anticipated to cost over $1 million. With the current state of the economy, it is uncertain when a positive outcome to an election could be expected.

The RWQCB and its staff have taken the position that they must enforce the Water Quality Regulations without consideration of how the public agencies will fund compliance. Proposed legislation supports this.

Recommendation

In 2002 the City approved an ERU rate of $35.00, the maximum rate allowed by Proposition 218, without a vote by property owners. The City has set the ERU rate for $35.00 each year following 2002.

Council action is required to set the ERU rate for 2009-2010.

Staff's recommendation is to adopt Resolution 2009-09 setting the fiscal year 2009-2010 stormwater assessment fee at $35 per equivalent runoff unit (ERU).

Attachments:
Resolution 2009-09

BEFORE THE CITY COUNCIL OF THE CITY OF LAFAYETTE
IN THE MATTER OF:

Establishing the Rate per Equivalent Runoff Unit for Fiscal Year 2009-2010 and Requesting the Contra Costa County Flood Control and Water Conservation District To Adopt an Annual Parcel Assessment for Drainage Maintenance and the National Pollutant Discharge Elimination System Program	)	RESOLUTION NO. 2009-09

WHEREAS, under the Federal Water Pollution Control Act, prescribed discharges of stormwater require a permit from the appropriate California regional water quality board under the National Pollutant Discharge Elimination System (NPDES) program; and

WHEREAS, the City of Lafayette (City) did apply for, and did receive, an NPDES permit which requires the implementation of selected Best Management Practices to minimize or eliminate pollutants from entering stormwaters; and

WHEREAS, it is the intent of the City to utilize funds received from its Stormwater Utility Area (SUA) for implementation of the NPDES program and drainage maintenance activities; and

WHEREAS, at the request of the City, the Contra Costa County Flood Control and Water Conservation District (District) has completed the process for formation of an SUA, including the adoption of the Stormwater Utility Assessment Drainage Ordinance No. 93-47; and

WHEREAS, the SUA and Program Group Costs Payment Agreement between City and District requires that City annually, by May 1, determine the rate to be assessed to a single Equivalent Runoff Unit (ERU) for the forthcoming fiscal year.

NOW, THEREFORE BE IT RESOLVED, that the City Council of the City of Lafayette does determine that the rate to be assigned to a single ERU for FY 2009-2010 shall be set at $35 (thirty-five dollars).

BE IT FURTHER RESOLVED, that the City Council of the City of Lafayette does hereby request the District to adopt SUA levies based on said amount.

PASSED AND ADOPTED by the City Council of the City of Lafayette on February 9, 2009 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

APPROVED:

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Don Tatzin, Mayor

ATTEST:

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Joanne Robbins, City Clerk